IN THE HIGH COURT OF JUDICATURE AT PATNA
G. APP. (DB) No.26 of 2008
THE STATE OF BIHAR
Versus
BHOLA MAHTON & ORS.
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5. 12.09.2008 Heard learned counsel for the appellant, the State of Bihar and learned counsel for the respondents and perused the impugned judgment whereby the respondents have been acquitted and discharged under Sections 302/34 and 201 of the Indian Penal Code.

There is no direct evidence to support the prosecution case. The informant and others have alleged that the deceased was threatened by all the respondents one day prior to the occurrence and only one witness, P.W.2, has come forward to allege that while going to some place he by chance saw the deceased and the accused persons going together on public way. Some materials are there to show that the deposition of P.W.2 as given in court is not consistent with what he had stated before the Investigating Officer and his closeness with the informant is also apparent.

In the facts of the case, we find no illegality or factual infirmity in the impugned judgment so as to grant leave to

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appeal. Hence, the prayer of the appellant to grant leave to appeal is rejected.

In view of the aforesaid discussions on merits, we find no necessity to pass any order in respect of I.A. No. 1295 of 2008 filed under Section 5 of the Limitation Act to condone the delay of about two months in preferring this appeal.

(Shiva Kirti Singh, J.)

BT **(Syed Md. Mahfooz Alam, J.)**

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